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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/028,935	12/28/2001	John Jacob Patanian	839-1106	3851

7590 09/16/2003

NIXON & VANDERHYE P.C.
8th Floor
1100 North Glebe Road
Arlington, VA 22201

EXAMINER

BHAT, ADITYA S

ART UNIT PAPER NUMBER

2863

DATE MAILED: 09/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/028,935

Applicant(s)

PATANIAN ET AL.

Examiner

Aditya S Bhat

Art Unit

2863

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 December 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 6, 11 and 16 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 6, 11, & 15 of copending Application No. 10/028936. Although the conflicting claims are not identical, they are not patentably distinct from each other because the limitations of the claims in the current application are encompassed in the previous application. The latter pending application encompasses the same process as the pending application and is a slightly broader version of the previous application. (Underlined portions below, show the differences in the process)

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim 6 (10/028935)	Claim 6 (10/028,936)
<p>6. An apparatus for determining performance impact of <u>individual components</u> of a <u>power plant</u> on overall thermal performance of the <u>power plant</u>, comprising: means for designing a first thermal model of the <u>power plant</u> using original specification data of the power plant; means for developing a second thermal model of the <u>power plant</u> from measured performance data of each component of the power plant; and means for determining the performance impact of a selected component of the <u>power plant</u> on the overall thermal performance of the <u>power plant</u> by substituting design performance data of the selected component in the first thermal model with its measured performance data.</p>	<p>6. An apparatus for determining performance impact of a <u>gas turbine</u> component part on overall thermal performance of the <u>gas turbine</u>, comprising: means for obtaining measured physical condition data for a select <u>gas turbine</u> component part; means for comparing the measured physical condition data of the select <u>gas turbine</u> component part with a corresponding predetermined reference value; means for determining a deviation of the measured physical condition data with respect to the predetermined reference value; and means for determining an impact of the deviation on the overall thermal performance of the gas turbine.</p>
Claim 11 (10/028935)	Claim 11 (10/028,936)
<p>11. A computer program product comprising a computer useable medium having computer program logic stored thereon for enabling a processor in a computer system to process data, said computer program product comprising: means for designing a first model using original specification data of a <u>power plant</u>; means for developing a second model from measured performance data of each component of the <u>power plant</u>; and means for determining the performance impact of a selected component of the <u>power plant</u> on the overall thermal performance of the <u>power plant</u> by substituting design performance data of the selected component in the first model with its measured performance data.</p>	<p>11. A computer program product comprising a computer useable medium having computer program logic stored thereon for enabling a processor in a computer system to process data, said computer program product when executed by the processor performing the steps of: (a) comparing measured physical condition data of a select <u>gas turbines</u> component part with a corresponding predetermined reference value; (b) determining a deviation of the measured physical condition data with respect to the predetermined reference value; and (c) determining an impact of the deviation on the overall thermal performance of the <u>gas turbine</u>.</p>
Claim 16 (10/028935)	Claim 15 (10/028,936)

<p>16. A computer-based method for providing assistance to a user of an application program for assessing the performance impact of individual components of a <u>power plant</u> on overall thermal performance of the <u>power plant</u>, the method comprising the steps of: using the application program to design a plant thermal model from original <u>power-plant</u> specification data; using the application program to design a matched thermal plant model from measured performance data of individual components of the <u>power plant</u>; and substituting design performance data, of a select component of the <u>power plant</u>, in the plant thermal model with its measured performance data.</p>	<p>15. A computer-based method for providing assistance to a user of an application program for assessing performance impact of a <u>gas turbine</u> component part on overall thermal performance of a <u>gas turbine</u>, the method comprising the steps of: obtaining measured physical condition data of a select <u>gas turbine</u> component part; using an application program to determine a deviation of the measured physical data with respect to a corresponding reference value; and determining an impact of the deviation. on the overall thermal performance of the <u>gas turbine</u> by correlating the deviation with a corresponding predetermined thermal performance effect factor.</p>
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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aditya S Bhat whose telephone number is 703-308-0332. The examiner can normally be reached on M-F 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached on 703-308-3126. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-5841 for regular communications and 703-308-5841 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

Application/Control Number: 10/028,935
Art Unit: 2863

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Aditya S Bhat
September 4, 2003



John Barlow
Supervisory Patent Examiner
Technology Center 2800